

## EXECUTIVE SUMMARY - ENFORCEMENT MATTER

Page 1 of 2

DOCKET NO.: 2008-1583-WQ-E TCEQ ID: RN105600837 CASE NO.: 36590  
 RESPONDENT NAME: SLC CONSTRUCTION, LLC FKA SLC CONSTRUCTION, LP

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> 1165 Rodeo Drive, Aransas Pass, Aransas County</p> <p><b>TYPE OF OPERATION:</b> Sand mining operation</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> One complaint was received alleging that water/slurry was being discharged from excavation pits onto private property and improper waste disposal. The complaint allegations were against Gulf Coast Stabilized Materials, however, during the investigation it was discovered the sand mining facility is being operated by the Respondent, SLC Construction. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED, the Complainant, and the Respondent expressed an interest in this matter. The Complainant has not indicated a desire to protest this action or speak at Agenda.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired August 10, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b></p> <p><b>TCEQ Attorney:</b> Ms. Tracy Chandler, Litigation Division, MC 175, (512) 239-0629          Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019</p> <p><b>TCEQ Enforcement Coordinator:</b> Mr. Ross Fife, Waste Enforcement Section, MC 128, (512) 239-2541</p> <p><b>TCEQ Regional Contact:</b> Mr. David Kennebeck, Corpus Christi Regional Office, MC R-14, (361) 825-3111</p> <p><b>Respondent:</b> Ms. Sara L. Clark, SLC Construction, LLC, 9200 Leonidas Horton Road, Conroe, TX 77304; Ms. Sara L. Clark, SLC Construction, LLC, P.O. Box 639, Conroe, TX 77305</p> <p><b>Respondent's Attorney:</b> Ms. Leslie Palenius Shores, Sheehy, Ware, &amp; Pappas, 2500 Two Houston Center, 909 Fannin Street, Houston, Texas 77010-1003</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b></p> <p><input checked="" type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date of Complaint Relating to this Case:</b> July 15, 2008</p> <p><b>Dates of Investigation Relating to this Case:</b> July 17, 2008 and July 31, 2008</p> <p><b>Date of NOE Relating to this Case:</b> August 27, 2008</p> <p><b>Background Facts:</b> The EDP RP was filed April 8, 2009. The signed Agreed Order was received on June 16, 2009.</p> <p><b>Current Compliance Status:</b> Not yet in compliance.</p> <p><b>WQ:</b></p> <ol style="list-style-type: none"> <li>Failed to obtain authorization to discharge storm water associated with industrial activities under a Texas Pollutant Discharge Elimination System ("TPDES") Multi-Sector General Permit [30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 C.F.R. § 122.26(c)].</li> <li>Failed to prevent the discharge of wastewater into or adjacent to water in the state without authorization [TEX. WATER CODE § 26.121(a)(1)].</li> </ol>	<p><b>Initial Calculated Penalty:</b> \$4,000</p> <p><b>Total Deferred:</b> \$0  <input type="checkbox"/> Expedited Order  <input type="checkbox"/> Financial Inability to Pay  <input type="checkbox"/> SEP Conditional Offset</p> <p><b>Total Paid/Due to General Revenue:</b> \$150/\$3,850</p> <p>The Respondent paid \$150 of the administrative penalty. The remaining amount of \$3,850 shall be payable in 35 monthly payments of \$110 each.</p> <p><b>Site Compliance History Classification</b>  <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b> Not yet rated.</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Ordering Provisions:</b></p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> <li>Immediately, cease discharging stormwater at the Facility until a Notice of Change is submitted.</li> <li>Within 15 days, implement Best Management Practices to prevent any unauthorized discharge, including repair or replacement of the hose containing leaks.</li> <li>Within 30 days, develop and implement a Storm Water Pollution Prevention Plan and submit a Notice of Change, to comply with the General Permit requirements.</li> <li>Within 45 days, submit written certification demonstrating compliance.</li> </ol>



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

TCEQ

DATES	Assigned	2-Sep-2008	Screening	25-Sep-2008	EPA Due	
	PCW	2-Oct-2008				

## RESPONDENT/FACILITY INFORMATION

Respondent	SLC Construction, LLC fka SLC Construction, L.P.		
Reg. Ent. Ref. No.	RN105600837		
Facility/Site Region	14-Corpus Christi	Major/Minor Source	Minor

## CASE INFORMATION

Enf./Case ID No.	36590	No. of Violations	2
Docket No.	2008-1583-WQ-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Ross Fife
		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** Subtotal 1 \$4,000

## ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 0.0% Enhancement Subtotals 2, 3, & 7 \$0

Notes: There were no NOVs or orders issued during the previous five years.

Culpability No 0.0% Enhancement Subtotal 4 \$0

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments Subtotal 5 \$0

Economic Benefit 0.0% Enhancement\* Subtotal 6 \$0

Total EB Amounts	\$191
Approx. Cost of Compliance	\$3,600

\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** Final Subtotal \$4,000

**OTHER FACTORS AS JUSTICE MAY REQUIRE** 0.0% Adjustment \$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

**Final Penalty Amount** \$4,000

**STATUTORY LIMIT ADJUSTMENT** Final Assessed Penalty \$4,000

**DEFERRAL** 0.0% Reduction Adjustment \$0

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral not offered for non-expedited settlement.

**PAYABLE PENALTY** \$4,000

Screening Date 25-Sep-2008

Docket No. 2008-1583-WQ-E

PCW

Respondent SLC Construction, LLC fka SLC Construction, L.P.

Policy Revision 2 (September 2002)

Case ID No. 36590

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN105600837

Media [Statute] Water Quality

Enf. Coordinator Ross Fife

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

There were no NOVs or orders issued during the previous five years.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 0%

<b>Screening Date</b> 25-Sep-2008		<b>Docket No.</b> 2008-1583-WQ-E		<b>PCW</b>	
<b>Respondent</b> SLC Construction, LLC fka SLC Construction, L.P.				<small>Policy Revision 2 (September 2002)</small>	
<b>Case ID No.</b> 36590				<small>PCW Revision June 12, 2008</small>	
<b>Reg. Ent. Reference No.</b> RN105600837					
<b>Media [Statute]</b> Water Quality					
<b>Enf. Coordinator</b> Ross Fife					
<b>Violation Number</b>		<div style="border: 1px solid black; padding: 2px;">1</div>			
<b>Rule Cite(s)</b>		<div style="border: 1px solid black; padding: 2px;">30 Tex. Admin. Code § 281.25(a)(4) and 40 Code of Federal Regulations § 122.26(c)</div>			
<b>Violation Description</b>		<div style="border: 1px solid black; padding: 2px;">Failed to obtain authorization to discharge storm water associated with industrial activities under a Texas Pollutant Discharge Elimination System ("TPDES") Multi-Sector General Permit.</div>			
<b>Base Penalty</b>					<div style="border: 1px solid black; padding: 2px;">\$10,000</div>

>> Environmental, Property and Human Health Matrix

**OR**

	<b>Harm</b>			
	Major	Moderate	Minor	
<b>Release</b>				
Actual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<b>Percent</b> <div style="border: 1px solid black; padding: 2px;">0%</div>
Potential	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	

>> Programmatic Matrix

	Major	Moderate	Minor	
<b>Falsification</b>				
	x	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<b>Percent</b> <div style="border: 1px solid black; padding: 2px;">10%</div>

**Matrix Notes**

100% of the rule requirement was not met.

**Adjustment**

\$9,000

\$1,000

**Violation Events**

**Number of Violation Events**

3

**Number of violation days**

70

mark only one with an x

daily	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>
monthly	<div style="border: 1px solid black; width: 40px; height: 15px; text-align: center;">x</div>
quarterly	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>
semiannual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>
annual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>
single event	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>

**Violation Base Penalty**

\$3,000

Three monthly events are recommended from the July 17, 2008 investigation date to the September 25, 2008 screening date.

**Good Faith Efforts to Comply**

**0.0% Reduction**

Before NOV    NOV to EDPRP/Settlement Offer

**\$0**

Extraordinary	<div style="border: 1px solid black; width: 100px; height: 15px;"></div>	<div style="border: 1px solid black; width: 100px; height: 15px;"></div>
Ordinary	<div style="border: 1px solid black; width: 100px; height: 15px;"></div>	<div style="border: 1px solid black; width: 100px; height: 15px;"></div>
N/A	x	(mark with x)

**Notes** The Respondent does not meet the good faith criteria for this violation.

**Violation Subtotal**

\$3,000

**Economic Benefit (EB) for this violation**

**Estimated EB Amount**

\$128

**Statutory Limit Test**

**Violation Final Penalty Total**

\$3,000

**This violation Final Assessed Penalty (adjusted for limits)**

\$3,000

## Economic Benefit Worksheet

Respondent SLC Construction, LLC fka SLC Construction, L.P.

Case ID No. 36590

Reg. Ent. Reference No. RN105600837

Media Water Quality

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$2,000	17-Jul-2008	3-Jun-2009	0.88	\$6	\$117	\$123
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$100	17-Jul-2008	3-Jun-2009	0.88	\$4	n/a	\$4
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to develop and implement a storm water pollution prevention plan (SWP3) and to complete and post a construction site notice. Date required is the initial investigation. Final date is the expected date of compliance.

### Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,100

TOTAL

\$128

<b>Screening Date</b> 25-Sep-2008 <b>Respondent</b> SLC Construction, LLC fka SLC Construction, L.P. <b>Case ID No.</b> 36590 <b>Reg. Ent. Reference No.</b> RN105600837 <b>Media [Statute]</b> Water Quality <b>Enf. Coordinator</b> Ross Fife <b>Violation Number</b> 2 <b>Rule Cite(s)</b> Tex. Water Code § 26.121(a)(1)	<b>Docket No.</b> 2008-1583-WQ-E <b>PCW</b> <small>Policy Revision 2 (September 2002)</small> <small>PCW Revision June 12, 2008</small>
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<b>Violation Description</b>	Failed to prevent the discharge of wastewater into or adjacent to water in the state without authorization. Specifically, on July 31, 2008, the investigator observed that the site had been dewatering pits into nearby bays and estuaries with a six inch hose, which also contained approximately six visible leaks.
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<b>Base Penalty</b>	\$10,000
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**>> Environmental, Property and Human Health Matrix**

OR	Release	Major	Moderate	Minor	<b>Percent</b>	
	Actual			x		
	Potential					

**>> Programmatic Matrix**

Falsification	Major	Moderate	Minor	<b>Percent</b>	
				0%	

<b>Matrix Notes</b>	Human health or the environment has been exposed to an insignificant amount of pollutants which did not exceed levels that are protective of human health or the environment.
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<b>Adjustment</b>	\$9,000
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<b>Violation Events</b>	\$1,000
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<b>Number of Violation Events</b> 1	56	<b>Number of violation days</b>
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mark only one with an x	daily		<b>Violation Base Penalty</b>	\$1,000
	monthly			
	quarterly	x		
	semiannual			
	annual			
	single event			

One quarterly event is recommended from the July 31, 2008 investigation date to the September 25, 2008 screening date.
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<b>Good Faith Efforts to Comply</b>	0.0% Reduction	\$0
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	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.
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<b>Violation Subtotal</b>	\$1,000
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<b>Economic Benefit (EB) for this violation</b>	<b>Statutory Limit Test</b>
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<b>Estimated EB Amount</b> \$63	<b>Violation Final Penalty Total</b> \$1,000
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<b>This violation Final Assessed Penalty (adjusted for limits)</b>	\$1,000
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**Economic Benefit Worksheet**

Respondent SLC Construction, LLC fka SLC Construction, L.P.

Case ID No. 36590

Reg. Ent. Reference No. RN105600837

Media Water Quality

Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$1,500	31-Jul-2008	3-Jun-2009	0.84	\$63	n/a	\$63
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to implement Best Management Practices to prevent the discharge of sediments into or adjacent to waters of the state and to repair leaks in the hose. Date required is the investigation date. Final date is the expected date of compliance.

**Avoided Costs**

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,500

TOTAL

\$63

# Compliance History Report

Customer/Respondent/Owner-Operator: CN603461468 SLC Construction LLC Classification: Rating:  
Regulated Entity: RN105600837 SLC CONSTRUCTION ARANSAS PASS AT RODEO DR Classification: HIGH Site Rating: 0.00

ID Number(s):

Location: 1165 RODEO DR, ARANSAS PASS, TX, 78336

TCEQ Region: REGION 14 - CORPUS CHRISTI

Date Compliance History Prepared: March 30, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: March 30, 2004 to March 30, 2009

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Ross Fife Phone: 512-239-2541

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A
6. Rating Date: 9/1/2008 Repeat Violator: NO

## Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.  
N/A
- B. Any criminal convictions of the state of Texas and the federal government.  
N/A
- C. Chronic excessive emissions events.  
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)  
1 08/27/2008 (700021)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)  
N/A
- F. Environmental audits.  
N/A
- G. Type of environmental management systems (EMSs).  
N/A
- H. Voluntary on-site compliance assessment dates.  
N/A
- I. Participation in a voluntary pollution reduction program.  
N/A
- J. Early compliance.  
N/A
- Sites Outside of Texas  
N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
SLC CONSTRUCTION, LLC FKA  
SLC CONSTRUCTION, LP,  
RN105600837

§  
§  
§  
§  
§  
§

BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY

## AGREED ORDER DOCKET NO. 2008-1583-WQ-E

### I. JURISDICTION AND STIPULATIONS

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding SLC Construction, LLC fka SLC Construction, LP ("SLC") under the authority of TEX. WATER CODE chs. 7 and 26 and 40 CODE OF FEDERAL REGULATIONS ("C.F.R.") pt. 122. The Executive Director of the TCEQ, represented by the Litigation Division, and SLC, represented by Leslie Palenius Shores of the law firm of Sheehy, Ware & Pappas PC, appear before the Commission and together stipulate that:

1. SLC operates a sand mining operation located at 1165 Rodeo Drive, Aransas Pass, Aransas County, Texas (the "Facility").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26, 40 C.F.R. pt. 122, and TCEQ rules.
3. The Commission and SLC agree that the Commission has jurisdiction to enter this Agreed Order, and that SLC is subject to the Commission's jurisdiction.
4. SLC received notice of the violations alleged in Section II ("Allegations") on or about September 1, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by SLC of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of four thousand dollars (\$4,000.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). SLC paid one hundred fifty dollars (\$150.00) of the administrative penalty. The remaining amount of three thousand eight hundred fifty dollars (\$3,850.00) of the administrative penalty shall be payable in 35 monthly payments of one hundred ten dollars (\$110.00) each, pursuant to 30 TEX. ADMIN. CODE § 70.9(a). The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If SLC fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, SLC's failure to meet the payment schedule of this Agreed Order constitutes the failure by SLC to timely and satisfactorily comply with all of the terms of this Agreed Order
7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and SLC agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that SLC has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

1. During an investigation conducted on July 17, 2008, a TCEQ Corpus Christi Regional Office investigator documented that SLC violated 30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 C.F.R. § 122.26(c) by failing to obtain authorization to discharge storm water associated with industrial activities under a Texas Pollutant Discharge Elimination System ("TPDES") Multi-Sector General Permit.

2. During an investigation conducted on July 31, 2008, a TCEQ Corpus Christi Regional Office investigator documented that SLC violated TEX. WATER CODE § 26.121(a)(1) by failing to prevent the discharge of wastewater into or adjacent to water in the state without authorization. Specifically, on July 31, 2008, the investigator observed that the Facility had been dewatering pits into nearby bays and estuaries with a six inch hose, which also contained approximately six visible leaks.

### III. DENIALS

SLC generally denies each allegation in Section II ("Allegations").

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that SLC pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and SLC's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: SLC Construction, LLC fka SLC Construction, LP, Docket No. 2008-1583-WQ-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. SLC shall undertake the following technical requirements:
  - a. Immediately upon the effective date of this Agreed Order, SLC shall cease discharging stormwater at the Facility, until a Notice of Change is submitted;
  - b. Within 15 days after the effective date of this Agreed Order, SLC shall implement Best Management Practices to prevent any unauthorized discharge, including repair or replacement of the hose containing leaks;

- c. Within 30 days after the effective date of this Agreed Order, SLC shall develop and implement a Storm Water Pollution Prevention Plan and submit a Notice of Change, to comply with the General Permit requirements, in accordance with 30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 C.F.R. § 122.26(c) to:

Wastewater Permitting Section  
Water Quality Division, MC 148  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

- d. Within 45 days after the effective date of this Agreed Order, SLC shall submit written certification and detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance with Ordering Provision Nos. 2.a. through 2.c. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

SLC shall submit the written certification and copies of documentation necessary to demonstrate compliance with Ordering Provision Nos. 2.a. through 2.c. to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

and

David Kennebeck, Water Section Manager  
Texas Commission on Environmental Quality  
Corpus Christi Regional Office  
6300 Ocean Drive, Suite 1200  
Corpus Christi, Texas 78412-5503

3. The provisions of this Agreed Order shall apply to and be binding upon SLC. SLC is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If SLC fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, SLC's failure to comply is not a violation of this Agreed Order. SLC shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. SLC shall notify the Executive Director within seven days after SLC becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by SLC shall be made in writing to the Executive Director. Extensions are not effective until SLC receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against SLC in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to SLC, or three days after the date on which the Commission mails notice of the Order to SLC, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SLC Construction, LLC fka SLC Construction, LP  
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## SIGNATURE PAGE

## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

  
For the Executive Director6/17/2009  
Date

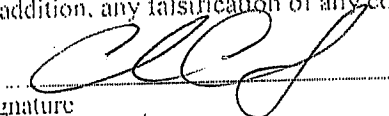
I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on SLC's compliance history;
- Greater scrutiny of any permit applications submitted by SLC;
- Referral of this case to the Attorney General's office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against SLC;
- Automatic referral to the Attorney General's Office of any future enforcement actions against SLC; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Signature

  
Christopher C. Clark

Name (Printed or typed)

Authorized representative of

SLC Construction, LLC fka SLC Construction, LP

Date

6/16/09

Title

Manager - Corpus Christi